## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

TRIPLE "S" WILDLIFE RANCH and	)	
STEVEN M. SEIBERT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-14-395-RAW
	)	
STATE OF OKLAHOMA ex rel.	)	
OKLAHOMA DEPARTMENT OF	)	
WILDLIFE CONSERVATION, et al.,	)	
	)	
Defendants.	)	

## ORDER

This matter came on for hearing on November 4, 2014 on plaintiff's motion for preliminary injunction. For the reasons stated at the hearing, the action is dismissed. The court heard testimony of defendant Ricky Rushing and determined that no further testimony was necessary for the court to render its decision.

Abstention under *Younger v. Harris*, 401 U.S. 37 (1971) is warranted when (1) there are ongoing state criminal, civil or administrative proceedings; (2) the state court offers an adequate forum to hear the federal plaintiff's claims from the federal lawsuit; and (3) the state proceeding concerns important state interests, matters which traditionally look to state law for their resolution or implicate separately articulated state policies. *See Lyman v. San Juan County*, 2014 WL 5293700 (10<sup>th</sup> Cir.2014). The court found these elements satisfied in the present case.

Some disagreement (between defendants) was presented about (1) the fact that this

case was filed before the criminal prosecution began and (2) this action did not seek to enjoin

the state prosecution itself. As to (1), the court is persuaded "the doctrine also may apply

even when the state prosecution begins after the federal complaint has been filed." See

Kingston v. Utah County, 161 F.3d 17, \*3 (10th Cir.1998)(emphasis added). As to (2), the

court finds indirect interference may nevertheless be present. "Effectively, by seeking

declaratory and injunctive relief from this Court, Plaintiffs are challenging the warrant (or

warrants) which are involved in a proceeding before the state Court, and these issues are not

properly before the Court." Smith v. Lexington-Fayette Urban County Government, 2008

WL 5110762 (E.D.Ky.2008).

It is the order of the court that this action is hereby dismissed without prejudice.

ORDERED THIS 4th DAY OF NOVEMBER, 2014.

Dated this 4th day of November, 2014.

Ronald A. White

United States District Judge

La. White

Eastern District of Oklahoma

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